IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.599 OF 2006
Along with
Civil Application No.890 of 2006

Datta Dhondiba Kambale, .. Appellant.
Vs
Tulsabai Dadu Powar and ors. .. Respondents.

Mr G.M.Savagave,for the appellant.
Mr Amit Borkar, for respondent nos 1 and 3.

CORAM : **D.B.BHOSALE,J.**
DATE : 12/02/2007
PC:

1. Heard the learned counsel for the parties.

2. The concurrent judgments of the courts below are under challenge in the instant second appeal. The suit filed by the plaintiff for declaration and partition has been decreed holding that the plaintiff has 1/3rd share in the suit property. Defendant nos 1 and 2 and the plaintiff are brothers and sister. Their father Dadu died leaving behind the property in dispute. Defendant no.4 is the purchaser of the said property from defendant no.3, who had purchased the said property from defendant no.1. Mr.Savagave, learned counsel for the appellant, submitted that the plaintiff, in any case, is not entitled for more than 1/6th share in the suit property since the father of the plaintiff and defendant

nos 1 and 2 died in 1956. This submission is devoid of any merits. Section 8 of the Hindu Succession Act is very clear under which the property of a male Hindu devolves firstly on the heirs specified in class I of the Schedule 1. Schedule 1 clearly covers daughter and sons, who are entitled for equal share. In the circumstances, the first submission of the learned counsel for the appellant is rejected. Mr Scavenge then submitted that the appellant is a bonafide purchaser of the suit property for value without notice. The appeal court in paragraphs 14 and 15 has considered the said issue and has rightly negatived the contention of the appellant. I find no reason to interfere with the findings of fact. No substantial question of law is involved in the instant appeal. In the circumstances, this second appeal is dismissed. As a consequence thereof, the civil application stands dismissed.

(D.B.BHOSALE,J.)